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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,022	10/21/2005	Daniel Michael Doulton	SV VMessenger US	2874
32383 7590 12/24/2008 MARK DAVID FOX, ESQ. 588 SUTTER STREET SUITE 555 SAN FRANCISCO, CA 94102				
EXAMINER AJAYI, JOEL				
ART UNIT 2617		PAPER NUMBER		
MAIL DATE 12/24/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/554,022

Applicant(s)

DOULTON, DANIEL MICHAEL

Examiner

JOEL AJAYI

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3-6, 13, 14, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Scherer (U.S. Patent Number: 5,867,562)** in view of **Davis et al. (U.S. Patent Application Number: 2005/0020288)**.

Consider **claim 1**; Scherer discloses a method of generating a text message from a voice message spoken into a first mobile telephone with SMS or MMS text capability, the method comprising the steps of:

- a. an end-user message originator speaking the voice message into the first mobile telephone (column 32, lines 13-33);
- b. creating a unique id (column 32, lines 13-33);
- c. assigning the unique id to the voice message (column 32, lines 13-33);
- d. converting the voice message to an audio file format (column 32, lines 13-33);
- e. sending the audio file to a voice to text transcription system to enable an operator to intelligently transcribe the voice message (column 32, lines 13-33, 48-50).

Except: causing the transcribed text message to be sent to a required destination.

In an analogous art, Davis discloses causing the transcribed text message to be sent to a required destination (paragraph 24, lines 7-23).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Scherer by including sending the transcribed information to the recipient as taught by Davis for the purpose of providing text messages to a wireless user.

Consider **claim 3**; Scherer discloses that a further voice message is originated at a mobile telephone or at a landline telephone and a SMS or MMS text message is generated from that further message (column 32, lines 13-33).

Consider **claim 4**; Scherer discloses that the transcribed text message has added to it the caller name and/or number (MSISDN) (column 32, lines 13-33).

Consider **claim 5**; Davis discloses that the transcribed text message is displayed on the device as though it was sent directly from an originator of the voice message (paragraph 24, lines 7-23).

Consider **claim 6**; Scherer discloses that the voice to text transcription system does not display to the operator the telephone number associated with the wireless information device (column 32, lines 13-33, 48-50).

Consider **claim 13**; Davis discloses that the text message is sent to the wireless information device in a format previously specified as appropriate by the user of the device (paragraph 24, lines 7-12).

Consider **claim 14**; Davis discloses that the originator of the voice message speaks the name of the intended recipient and the operator or a speech recognition system is able to extract the relevant telephone number of the wireless information device, email address or other address by looking up that name in a web-based address book associated with the originator (IM consists of an address book) (paragraph 24).

Consider **claim 17**; Davis discloses that for mobile telephones that support less than a certain amount of text, there is an initial look up of the text limitations in a database and then an automatic suggestion of appropriate maximum recording time (messaging protocols such as SMS have limitations) (paragraph 7).

Consider **claim 18**; Davis discloses an automated voice recognition system to speed up the processing of the audio file (Davis uses an automated method) (paragraph 24).

Consider **claim 19**; Davis discloses a text message which has been transcribed from a voicemail and is provided to a wireless information device (paragraph 24, lines 7-12).

Consider **claim 20**; Scherer discloses a mobile telephone programmed with an application that enables an end-user originator of a message to cause a SMS or MMS text message to be generated from that message (column 32, lines 13-33).

Claims 2, 7-12, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Scherer (U.S. Patent Number: 5,867,562)** in view of **Davis et al. (U.S. Patent Application Number: 2005/0020288)**, further in view of **Martin (U.S. Patent Number: 6,606,373)**.

Consider **claim 2**; Scherer and Davis disclose the claimed invention except that the transcribed text message has added to it the time and date of the voice message.

In an analogous art, Martin discloses that the transcribed text message has added to it the time and date of the voice message (column 5, line 63 – column 6, line 15).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Scherer and Davis by including the time and date of the voice message in the transcribed text message, as taught by Martin, for the purpose of converting voice messages to text messages, and transmitting a text message to a subscriber.

Consider **claim 7**; Martin discloses that the voice to text transcription system displays to the operator an option to re-route the audio file to a different computer with an operator that is more suited to transcribing the voice message because of linguistic, dialect, or cultural reasons (column 12, line 52 – column 13, line 4).

Consider **claim 8**; Martin discloses that the voice to text transcription system provides the operator with a searchable list of specialised terms that are relevant to cultural sayings, regular events, sporting events, media events, other kinds of newsworthy events (data repository) to

assist the operator in accurately transcribing those specialised terms (column 12, line 52 – column 13, line 4).

Consider **claim 9**; Martin discloses that the operator represents the mood of the caller leaving the voice message in the transcribed text message using either a written description or an emoticon (column 12, lines 17-23, 40-44).

Consider **claim 10**; Martin discloses that the operator succinctly summarises the voice message (column 12, lines 40-44, 52-59).

Consider **claim 11**; Martin discloses that the operator summarises the voice message to fit it the 160 character SMS limit or subsequent concatenated text messages (column 12, lines 52-59).

Consider **claim 12**; Martin discloses that the operator omits from the transcribed text message any hesitations, artefacts, or unnecessary repetitions present in the voice message (summary) (column 12, lines 40-44, 52-59).

Consider **claim 15**; Martin discloses parsing the transcribed text message and using the parsed data in an application running on the second mobile telephone (column 12, lines 52-59).

Consider **claim 16**; Martin discloses that using the parsed data involves one or more of the following: (a) extracting the phone number spoken allowing it to be used (to make a call), saved, edited or added to a phone book (column 14, lines 3-11, 32-47); (b) extracting an email address and allowing it to be used, saved, edited or added to an address book (column 14, lines 3-11, 32-47); (c) extracting a physical address and allowing it to be used, saved, edited or added to an address book (column 14, lines 3-11, 32-47); (d) extracting a web address (hyperlink) and allow it to be used, edited, saved or added to an address book or browser favourites (column 14,

lines 3-11, 32-47); (e) extracting a time for a meeting and allow it to be used, saved, edited and added to an agenda as an entry (column 14, lines 3-11, 32-47); (f) extracting a number and saving it to one of the device applications (column 14, lines 3-11, 32-47); (g) extracting a real noun and providing options to search for it or, look it up on the web (WAP or full browser) (column 14, lines 3-11, 32-47).

Conclusion

Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to:**

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P.O. Box 1450
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Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joel Ajayi whose telephone number is (571) 270-1091. The Examiner can normally be reached on Monday-Friday from 7:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Joel Ajayi

/Lester Kincaid/

Supervisory Patent Examiner, Art Unit 2617